

Proposed Rule
LSA Document #11-406

DIGEST

Adds [760 IAC 1-79](#) to set forth standards to protect consumers from misleading and fraudulent marketing practices with respect to the use of senior-specific certifications and professional designations in the solicitation, sale, or purchase of, or advice made in connection with, a life insurance or annuity product. Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[760 IAC 1-79](#)

SECTION 1. [760 IAC 1-79](#) IS ADDED TO READ AS FOLLOWS:

Rule 79. Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities

[760 IAC 1-79-1](#) Scope

Authority: [IC 27-1-3-7](#); [IC 27-1-15.6-33](#)

Affected: [IC 27-1-15.6](#)

Sec. 1. This rule shall apply to any:

- (1) solicitation of;
- (2) sale of;
- (3) purchase of; or
- (4) advice made in connection with;

a life insurance or annuity product by an insurance producer.

(Department of Insurance; [760 IAC 1-79-1](#))

[760 IAC 1-79-2](#) Definition

Authority: [IC 27-1-3-7](#); [IC 27-1-15.6-33](#)

Affected: [IC 27-1-15.6-2](#)

Sec. 2. For purposes of this rule, "insurance producer" has the meaning set forth in [IC 27-1-15.6-2](#)(8).

(Department of Insurance; [760 IAC 1-79-2](#))

[760 IAC 1-79-3](#) Prohibited uses of senior-specific certifications and professional designations

Authority: [IC 27-1-3-7](#); [IC 27-1-15.6-33](#)

Affected: [IC 27-1-15.6-12](#)

Sec. 3. (a) It is a fraudulent, coercive, and dishonest practice in the business of insurance under [IC 27-1-15.6-12](#)(b)(8) for an insurance producer to use a senior-specific certification or professional designation that indicates or implies in such a way as to mislead a purchaser or prospective purchaser that the insurance producer has special certification or training in advising or servicing seniors in:

- (1) connection with the solicitation, sale, or purchase of a life insurance or an annuity product;
- (2) the provision of advice as to the value of or the advisability of purchasing a life insurance or annuity product; or
- (3) the sale of life insurance and annuities, selling a life insurance or annuity product;

either directly or indirectly through publications or writings, or by issuing or promulgating analyses or reports related to a life insurance or annuity product.

(b) The prohibited use of senior-specific certifications or professional designations includes, but is not limited to, use of the following:

- (1) A certification or professional designation by an insurance producer who has not actually earned or is otherwise ineligible to use the certification or designation.
- (2) A nonexistent or self-conferred certification or professional designation.
- (3) A certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the insurance producer using the certification or designation does not have.
- (4) A certification or professional designation that was obtained from a certifying or designating organization that:
 - (A) is primarily engaged in the business of instruction in sales or marketing; or
 - (B) does not have reasonable:
 - (i) standards or procedures for assuring the competency of its certificants or designees;
 - (ii) standards or procedures for monitoring and disciplining its certificants or designees for improper or unethical conduct; or
 - (iii) continuing education requirements for its certificants or designees in order to maintain the certificate or designation.

(c) There is a rebuttable presumption that a certifying or designating organization is not disqualified solely for purposes of subsection (b)(4) when the certification or designation issued from the organization does not primarily apply to sales or marketing and when the organization or the certification or designation in question has been accredited by:

- (1) the American National Standards Institute;
- (2) the National Commission for Certifying Agencies; or
- (3) any organization that is on the U.S. Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes".

(d) In determining whether a combination of words or an acronym standing for a combination of words constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing seniors, factors to be considered shall include the following:

- (1) Use of one (1) or more words such as "senior", "retirement", "elder", or like words combined with one (1) or more words such as:
 - (A) "certified";
 - (B) "registered";
 - (C) "chartered";
 - (D) "advisor";
 - (E) "specialist";
 - (F) "consultant";
 - (G) "planner"; or
 - (H) like words;

in the name of the certification or professional designation.

- (2) The manner in which those words are combined.

(e) For purposes of this rule, a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency is not a certification or professional designation, unless it is used in a manner that would confuse or mislead a reasonable consumer, when the job title:

- (1) indicates seniority or standing within the organization; or
- (2) specifies an individual's area of specialization within the organization.

For purposes of this subsection, "financial services regulatory agency" includes, but is not limited to, an agency that regulates insurers, insurance producers, broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940.

(f) An insurance producer who uses a senior-specific certification or professional designation in violation of this section will be subject to administrative action under [IC 27-1-15.6-12](#).

(Department of Insurance; [760 IAC 1-79-3](#))

[760 IAC 1-79-4](#) Severability

Authority: [IC 27-1-3-7](#); [IC 27-1-15.6-33](#)

Affected: [IC 27-1-15.6](#)

Sec. 4. If:

(1) any section or portion of a section of this rule; or

(2) its applicability to any person or circumstance;

is held invalid by a court, the remainder of the rule or the applicability of the provision to other persons or circumstances shall not be affected.

(Department of Insurance; [760 IAC 1-79-4](#))

[Notice of Public Hearing](#)

Posted: 04/11/2012 by Legislative Services Agency

An [html](#) version of this document.